

Exhibit W

HARRIS BEACH
ATTORNEYS AT LAW

December 21, 2020

677 BROADWAY, SUITE 1101
ALBANY, NEW YORK 12207
518.427.9700
JAVID AFZALI
MEMBER
DIRECT: 518.701.2775
FAX: 518.427.0235
JAFZALI@HARRISBEACH.COM**VIA ELECTRONIC MAIL:**Daniel S. Hogue, Jr., Supervisor
Town of Forestburgh
332 King Road
Forestburgh, New York 12777**RE: Engagement Letter for Legal Services Between the Town of Forestburgh
and Harris Beach PLLC, as Special Council**

Dear Supervisor Hogue:

This letter summarizes the proposed terms of Harris Beach PLLC's (the "Firm") representation of the Town of Forestburgh ("Client" or the "Town"), including the scope of services the Firm will provide the Town pursuant to this engagement and the agreed-upon fee and billing arrangements. Unless otherwise set forth herein, the Firm's representation will be limited to the Town only, and does not extend to any separate or differing interests of the Town's officers, directors, owners, subsidiaries, affiliates, agents, employees, or family members, or to any other potentially-interested or related parties (individually "Affiliate," and collectively, "Affiliates").

Scope of Engagement.

The Firm agrees to serve as the Town's special counsel for legal services regarding legislative, planning and zoning matters related to the Lost Lake Resort project (the "Matters"). The scope of this engagement does not include litigation services or matters that are incidental to other municipal planning board and zoning board of appeals permits/approvals. The Firm will represent the Town to the best of its ability, but does not guarantee any particular result.

If the Town desires legal counsel on an issue outside the scope of the Matter, the Firm may agree to provide such counsel under separate agreement with the Town (which may be communicated by e-mail). Unless expressly included in the foregoing description of the Matter, the Matter does not include any appeals that may arise from the Matter. Please also note that the Firm does not engage in lobbying activities on behalf of any client.

The Town agrees that the Firm may disclose the fact of its representation of the Town, including in materials that the Firm uses to describe its practices and expertise.

Firm Personnel; Principal Contact.

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Javid Afzali will be responsible for the supervision of the Matter, but the Town is engaging the Firm as a whole and not any individual attorney. He can be reached at 518-701-2775. As necessary or appropriate, the Firm will draw upon the talents and experience of other Firm attorneys, professionals, and staff in providing services relating to the Matter.

Fee Arrangement.

The Firm's fee is based on the time spent by the attorneys and legal assistants who work on the Matter. Currently, our hourly rates generally range from \$365-\$475 for members and senior counsel, \$195-\$340 for associates and other attorneys, and \$95-\$195 for paralegals. These rates are subject to change annually. Additionally, for some work or attorneys, the rate may be higher if highly-specialized matters are involved. Javid Afzali's current hourly rate is \$450 per hour.

As we have discussed, however, the Firm is pleased to offer a discounted municipal rate. For legal services chargeable to an applicant or project escrow, we will invoice the Town separately, indicating the applicant name, and render such services at a blended rate of \$350.00 for hour. For all other legal services within the scope of this agreement not chargeable to an applicant or project escrow, we will invoice the Town at a discounted hourly rate of \$225 per hour for such services. Furthermore, we will submit monthly vouchers for your and the Town Board's approval.

We will, at the Town's request, provide fee estimates. However, such estimates are provided only for the Town's information; they are not guarantees and are not binding on the Firm. Actual costs might be higher or lower than the estimated amount depending on a host of factors, including, for example, number and types of motions filed; whether proceedings such as trials, hearings, or closings are delayed or postponed; scope and extent of discovery; and the amount of assistance the Town is able to provide the Firm in areas such as collection of information, documents, and electronically stored information, the location of witnesses, etc. In the event a dispute arises between the Town and the Firm regarding fees, the Town may have the right to arbitrate that dispute pursuant to Part 137 of the Rules of the Chief Administrator of the Courts, a copy of which will be provided to the Town upon request.

Other Charges.

In addition to the Firm's fees for rendering professional services, the Town shall be responsible for, and Firm invoices will include, separate charges for performing services such as photocopying, scanning, delivery charges, long distance telephone calls, facsimile transmissions, specialized computer applications, travel, and other expenses and services incurred incidentally to the performance of the Firm's legal services. The Town shall also be responsible for payment of any expenses and disbursements incurred by the Firm on the Town's behalf (*i.e.*, transcription fees, filing fees, expert witness fees, etc.), which will be billed to the Town with the Firm's invoice. Based on the nature of the expense, the Firm may also request that the Town pay or

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advance the fee directly to the person/entity requesting/charging the same. The Firm shall promptly notify the Town of any significant expense that is incurred in connection with the Matter.

Should the Town ever issue a litigation hold to the Firm for a matter unrelated to the Firm (e.g., due to a subpoena or litigation/threatened litigation in which the Firm is not a party or potential party), the Town shall reimburse the Firm for its reasonable costs expended in complying with such litigation hold.

Billing Cycle and Retainer.

The Firm generally requires its clients to deposit a retainer for legal services against which the Firm bills and collects fees and disbursements. The Firm has waived the requirement for an initial retainer with respect to this Matter, but reserves the right to require one if deemed appropriate in the future. Fees for legal services and other charges are billed monthly and are payable within 45 days of the Town's receipt of the Firm's invoice.

Should the Town's account remain unpaid after 45 days, a late-payment fee of 0.75% per month, or 9.00% per annum, will be added to the amount due. If the Town's account becomes delinquent by more than 90 days, the Firm will contact the Town about making arrangements to bring the account current. It is our hope that, by addressing payment issues promptly, we can avoid any misunderstanding. However, as a condition to the Firm's continued representation of the Town, the Town must remain current in the Town's payments to the Firm for services and expenses. Should a delinquency continue and satisfactory payment terms not be arranged, the Firm reserves the right to withdraw from its representation of the Town and pursue collection of the amount owed. In such an event, the Town shall be responsible for the cost of collecting the debt, including court costs, filing fees, and reasonable attorneys' fees incurred by the Firm for the collection.

If the Town ever overpays an invoice, the Town agrees that the Firm may apply such overpayment to any outstanding fees and expenses or to the Town's next bill, with notice to the Town as to how the Firm applied the overpayment. If there are no outstanding fees or expenses and no work in progress, the Firm shall refund the overpayment to the Town.

Termination of Engagement.

Either party may terminate the engagement described herein at any time for any reason by providing the other party written notice, subject, on the Firm's part, to the rules of professional conduct. No such termination, however, will relieve the Town of the obligation to pay the legal fees owed to the Firm for services performed and other charges owed to the Firm through the date of termination. After the Firm's completion of legal services to the Town, changes may occur in applicable laws or regulations that could have an impact upon the Town's future rights and liabilities. Unless the Town engages the Firm after completion of the Matter to provide

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additional advice on issues relating specifically to the Matter, the Firm has no continuing obligation to advise the Town with respect to future legal developments, whether relating to the Matter or otherwise.

Conclusion of Representation; Disposition of Client Documents.

Unless previously terminated, the Firm's representation of the Town with respect to the Matter will conclude when the Firm sends the Town the last invoice for services rendered in the Matter. Following such conclusion, any otherwise nonpublic information the Town has supplied to the Firm that is retained by the Firm will be kept confidential in accordance with applicable rules of professional conduct. At the Town's request, the Firm will return the Town's papers and property promptly after receipt of payment for any outstanding fees and costs. If the Town does not make such a request within 90 days following the conclusion of the engagement set forth herein, the Town agrees and understands that any materials left with the Firm after the engagement ends may be retained or destroyed at the Firm's discretion.

Please note that "materials" include paper files and information in other storage media, including, but not limited to, voicemail, e-mail, and other electronic files, printer files, copier files, video files, and other formats. The Firm reserves the right to make, at its expense, copies of all documents generated or received by the Firm in the course of its representation. The Firm will retain its files pertaining to the Matter. These Firm files include, for example, Firm administrative records; internal lawyers' work product, such as drafts, notes, and internal memoranda; and legal and factual research, including memos and investigative reports prepared by or for the internal use of lawyers. The Firm will retain all remaining documents for a certain period of time, but reserves the right for various reasons, including the minimization of unnecessary storage expenses, to destroy or otherwise dispose of them within a reasonable time after the conclusion of the engagement set forth herein.

Client Cooperation.

The Town agrees to cooperate fully with the Firm and to provide promptly all information known or available to the Town relevant to the Firm's representation of the Town, as well as any updates or changes to the Town's contact information. Such cooperation is essential, as the Firm will, of necessity, be relying on the completeness and accuracy of the information the Town provides to the Firm when performing services on the Town's behalf. Should the Town not fully cooperate with the Firm, both the efficiency and economy of the Firm's representation of the Town may suffer.

Communication with Client.

Unless the Town directs otherwise, the Firm will use unencrypted e-mail as the primary means of communication with the Town, and the Town shall inform the Firm of which e-mail address(es) the Firm should use for such communication. The Firm may also use cellular

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telephones (including smart phones) and facsimile machines to communicate with the Town. Texting is not a preferred method of communication, but may be used on a limited basis to communicate non-sensitive information to the Town. The Firm will take reasonable steps to protect the confidentiality of Firm-Client communications, but, unless applicable law provides otherwise, the Firm will not be responsible for disclosures of the Town's confidential information occurring from the use of such communication technologies. The Town agrees to notify the Firm if the Town has any requests or requirements regarding the Firm's methods of communication with the Town that differ from the foregoing.

Possible Conflicts.

Conflicts of interest will be handled as required by applicable rules of professional conduct. Unless otherwise agreed, for the purpose of determining whether a conflict of interest exists, it is only the Town that the Firm represents, and not any of its Affiliates. The Town agrees not to give the Firm any confidential information regarding any Affiliate unless: (a) that Affiliate has separately engaged the Firm to perform services on that Affiliate's behalf; or (b) such information is essential to the engagement set forth herein. While the Firm recognizes that to act adversely to any Affiliate could jeopardize a long-term relationship with the Town, which the Firm does not wish to do, for conflict of interest purposes the Firm reserves the right to represent another client with interests adverse to any Affiliate that is not itself a Firm client without obtaining any consent from the Town or its Affiliates.

The Firm maintains a Risk Management Committee that acts as in-house counsel to its attorneys and will, on occasion, retain outside counsel when an attorney handling a client matter may have a concern on a matter of professional responsibility. To the extent the Firm is addressing its duties, obligations, or responsibilities to the Town in those consultations, it is possible that a conflict of interest might be deemed to exist as between Firm lawyers or the Firm and the Town. The Town agrees that these consultations are protected from disclosure by the Firm's attorney-client privilege and that the Town will not seek to discover or inquire into them. Of course, nothing in the foregoing shall diminish or otherwise affect the Firm's obligation to keep the Town informed of material developments in the Firm's representation of the Town, including any conclusions arising out of such consultations to the extent that they affect the Town's interests.

Please contact me directly with any questions regarding this engagement letter. Otherwise, if this proposal is acceptable, please so indicate by returning a countersigned copy of this engagement letter. Consistent with its policy, the Firm reserves the right to delay commencement of work on this Matter until the Town has signed and returned this engagement letter to us.

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We appreciate the opportunity to represent, and look forward to working with the Town in these Matters.

Sincerely,

HARRIS BEACH PLLC

By:

Javid Afzali

Agreed and Accepted ^{March 2021}
this 2 day of ~~December, 2020~~

DH

Town of Forestburgh

By:

Name:

Daniel S. Hogue Jr

Title:

Supervisor / Town of Forestburgh